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APPLICATION NUMBER | FILING DATE | NAMED INVENTOR | ATTORNEY DOCKET NO.

WELTER & SCHMIDT
1000 NORWEST CENTER
SAINT PAUL, MN 55101-2700

EXAMINER

06/11/93

ART UNIT | PAPER NUMBER

5

DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☒ Notice of References Cited by Examiner, PTO-892.
2. ☒ Notice re Patent Drawing, PTO-948.
3. ☒ Notice of Art Cited by Applicant, PTO-1449.
4. ☐ Notice of Informal Patent Application, Form PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474.
6. ☐ _____

Part II SUMMARY OF ACTION

1. ☒ Claims 1-25 are pending in the application.

   Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 1-25 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed on _____ has been ☐ approved. ☐ disapproved (see explanation).

12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

PTOL-326 (Rev. 9-89)

1. Claims 1-25 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1. "the mounting means", "the horizontal surface", "the vertical surface" lack an antecedent basis . In claim 9, "the horizontal surface" lacks an antecedent basis.

In claim 17, "the horizontal surface" lacks an antecedent basis.

Also in claim 9, it appears that "vertical surface" is used to describe two different elements. They should differentiated by using first and second vertical surfaces. The phrase "a one piece housing that on a vertical surface surrounds the same is confusing. Since the trap is open from above, the light source is not surrounded.

In claim 17, "the source" lacks an antecedent basis. Also, it appears that the light can be viewed as shown in Figure 1.

It appears Figures 1 and 2 conflict in the position of the lamps.

2. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the housing must be shown or the feature cancelled from the claim. No new matter should be entered.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 C.F.R. § 1.75(d)(1) and M.P.E.P. § 608.01(l). Correction of the following is required: placement means.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5 are rejected under 35 U.S.C. § 102(b) as being anticipated by Phillips.

The patent to Phillips shows an insect trap with a source of insect attractant light 14, a housing 13, a reflecting surface 40 attracted to the mounting means, an insert immobilization surface 32. In reference to claim 5, the light acts ~~adds~~ as an attractant.

7. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
>
> Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention

were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

8. Claims 6-8 are rejected under 35 U.S.C. § 103 as being unpatentable over Phillips.

Phillips does not disclose a well known pheromone. However, in reference to claim 6, it would have been obvious to use a pheromone to attract as many insects as possible to make the trap more useful. In reference to claim 7, Phillips does not disclose a shiny metallic surface but it would have been within the purview of one skilled in the art to obtain a high refection. Phillips does not disclose lethal electrified surface. In reference to claim 8, it would have been obvious to use a lethal electrical surface since the function is the same and no showing of criticality was made.

9. Claims 17, 20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Robinson.

See figure 3 where supports 9 act as a vertical surface.

10. Claims 18-19, 21 and 22-25 rejected under 35 U.S.C. § 103 as being unpatentable over Robinson.

The patent to Robinson shows a light and a soup plus water solution to kill insects. Robinson does not disclose ultraviolet light but it would it would have been obvious to use well known ultraviolet light for its insect attracting ability. In reference to claim 19, Robinson does not disclose an adhesive

surface but it would have been obvious to use a well known adhesive surface in place of the soap plus water solution since the solution since the function is the same and no showing of criticality was made. In reference to claim 21, Robinson does not disclose a pheromone attractant but it would have been obvious to employ one in conjunction with the light source to attract as many insect as possible. In reference to claim 22, Robinson does not disclose a shiny metal surface but it would have been obvious to use shiny metal to reflect light as much as possible to attract more insects.

In reference to claims 23-25, Robinson does not disclose contrasting colors but it would have been obvious to make the trap stand out from the surroundings.

11. Claims 9-16 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. § 112.

12. The patents to Yarmeli, Schneider, Weiment, Pohlman, and Snead show other traps.

13. Any inquiry concerning this communication should be directed to Kurt Rowan at telephone number (703) 308-2321.

Kurt Rowan

Rowan/bp
June 02, 1993

KURT C. ROWAN